

UNITED STATES DISTRICT COURT

for the

United States Courts
Southern District of Texas
FILED

District of

MAR 16 2020

Division

David J. Bradley, Clerk of Court

Case No. **4:20-cv-987**

(to be filled in by the Clerk's Office)

Johnny Joe Linker Jr.
Plaintiff

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-V-

Randy Rowe District Court #179

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Defendant No. 3

Name

Job or Title (*if known*)

Shield Number

Employer

Address

City

State

Zip Code

 Individual capacity Official capacity

Defendant No. 4

Name

Job or Title (*if known*)

Shield Number

Employer

Address

City

State

Zip Code

 Individual capacity Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*): Federal officials (a *Bivens* claim) State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

I claim that my rights are being violated by not establishing me a court date or bond for a theft > \$2500. This has been going on since 2-12-2020 until today 3-12-2020. I can not bond out and no court date has been granted to me. In addition I am not on Parole or Probation.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- C. What date and approximate time did the events giving rise to your claim(s) occur?

February 12th 2020 11:00 A.M.

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?) I was arrested on 1-20-2020 for Aggravated Assault with a deadly weapon. I was read probable cause bond was set at \$35,000 and a court date was issued. On 2-12-2020 in District Court #179 my attorney Stephanie Martin proceeds to tell me I have an additional charge of Theft > \$2500 and my case would be transferred to a lower court the following day on 2-13-2020 I appeared in court but again I was in the #179th District Court and the bailiff told me he wasn't sure what was going on that my case was being transferred to another court. From 2-13-2020 until present 3-12-2020 I have yet to appear in court for the theft charge and I have no bond and no court date. My wife Michele Andrews is trying to bond me out but cannot because I have no bond on this Theft case.
- V. Injuries I am not on Parole or Probation I should be eligible for a bond.

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

From 2-12-2020 I have been in the custody of Harris County Jail. To Present - 3-12-2020. I am asking for 700 a day for each day of incarceration totaling \$21,000.00. I had a 2015 Ford F-150 that was impounded and have lost the truck totaling \$38,000.00. For a total amount of \$59,000.00

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

1200 Baker St. Jail
Harris County, TX 77002

2. What did you claim in your grievance?

My claim was the fact that I've been sitting here in the jail with no bond and no court date on a Theft > \$2500 since 2-12-2020. I have a bond for what I was arrested for of \$35,000 for Agg. Ass. w/weapon yet for the Theft > \$2500 I have no bond? I feel my rights are being violated.

3. What was the result, if any?

Not Found

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

None - I do believe it is final.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition.

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

NO

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3-12-2020

Signature of Plaintiff

Printed Name of Plaintiff

Johnny Joe Linker Jr.

Prison Identification #

00980788

Prison Address

1200 Baker St Houston Texas 77002

City

State

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address